

**SUPERIOR COURT  
OF THE STATE OF DELAWARE**

FRED S. SILVERMAN  
JUDGE

NEW CASTLE COUNTY COURTHOUSE  
500 N. KING STREET, SUITE 10400  
WILMINGTON, DELAWARE 19801  
(302) 255-0669

March 31, 2006

Christina Showalter, Esquire  
Deputy Attorney General  
Department of Justice  
Carvel State Office Building  
820 N. French Street, 7th Fl.  
Wilmington, DE 19801

**INMATE MAIL**

Stephanie Walls  
Women's Correction Institution  
660 Baylor Blvd.  
New Castle, DE 19720

*Re: State v. Stephanie Y. Walls, ID#0008018129*

Dear Deputy Attorney General Showalter and Ms. Walls:

This decides Defendant's latest motion to reduce the sentence she has been serving since early 2003. Sentencing is never easy, but this one was exceptionally difficult. It offered an unusually strong conflict between the opposing sentencing factors. When it sentenced Ms. Walls years ago, the court struggled to reach the right result. Since then, as discussed below, the court has continued to consider and reconsider the original sentence.

On the one hand, Ms. Walls did a terrible thing to Nicholas Trusello, a

child in her care. Despite the State's suggestion in its latest opposition to sentence reduction, the court does not need to be reminded about the crime and its aftermath. No one familiar with this case will ever forget Nicholas. Although the court disagrees with the State's hyperbole that Nicholas has "no" future, the court appreciates that Nicholas's injuries are horrific and permanent, or as the State puts it, "devastating." Nicholas's future is circumscribed by the love that he and his adoptive parents share. The future, however, offers little else. The court has not forgotten that. How could it?

On the other hand, Ms. Walls's behavior was undeniably a tragic, single departure from the exemplary life she led until she shook and dropped Nicholas. She was not only a working wife and mother, she was the Department of Family Services's "go-to" foster parent. Indeed, Nicholas was placed in Ms. Walls's care because he was a challenge; she was dependable and believed to be up to the task. No one, especially Ms. Walls, realized that she was becoming overwhelmed by her own circumstances, and her well-meaning willingness to take responsibility for Nicholas entailed more than she could handle.

After perfunctory denials, Ms. Walls took responsibility for what she did. Her remorse when she confessed, then at trial and at sentencing seemed sincere. The court believed that, unlike many defendants who never look back, Ms. Walls will be punished by the memory of Nicholas and what she did to him.

Thus, when it sentenced Ms. Walls, the court was dealing with a first-offender and a highly productive member of society who, in a reckless, split-second, committed a crime with permanent, devastating consequences, and for which she felt true remorse. The sentencing guidelines recommended a two year, prison sentence for the lead charge and up to six months on the companion. Considering everything, the court imposed a four year sentence on the lead charge and six months on the companion charge, followed by probation. The State agrees "that the sentence struck a balance between holding the defendant accountable and seeking justice."

## **II.**

As presented in detail below, since the court sentenced her on January 24, 2003, through counsel and on her own, Ms. Walls has filed repeated requests for sentence reduction, which the State has consistently opposed. The court repeatedly denied sentence reduction, but it indicated that it would retain jurisdiction and consider sentence reduction after Ms. Walls served two years. The court also suggested that Ms. Walls apply for sentence reduction under 11 *Del. C. § 4217*.

On October 21, 2005, almost three years after she went to prison, Ms. Walls filed her latest request for sentence reduction. In response, on November 21, 2005 the court issued an order calling for Defendant to advise the court about the steps taken to obtain sentence reduction under 11 *Del. C. § 4217*, as suggested by the court. The order also required the State to provide a substantive response.

Ms. Walls's reply, dated November 28, 2005, was received on December 2, 2005. She explained that she had applied for reduction and the prison's classification board unanimously approved it. The Department of Correction's Institutional Release Classification Board, however, unanimously rejected reduction because of the offense's seriousness.

## **III.**

The State's opposition to sentence reduction is three-pronged. First, the State elaborately argues that the motion is late. Second, the motion is repetitive. Finally, as suggested above, the State argues that reduction is undeserved.

According to the State, this motion was filed years after Walls's conviction became final, and the court's authority to reduce a sentence after ninety days is very limited. After ninety days, Superior Court Criminal Rule 35(b) kicks-in and the court must find exceptional circumstances far exceeding what Ms. Walls has offered.

For example, the State argues that the court often holds:

[a] defendant's exemplary conduct and/or rehabilitation while imprisoned do not qualify as 'extraordinary circumstances' within the purview of [Superior Court Criminal] Rule 35 and are insufficient grounds for supporting a Rule 35 reduction of sentence.

As mentioned, the State further argues, procedurally, that Ms. Walls's motion must be denied as repetitive. Under Rule 35(b), the court "will not hear repetitive requests for reduction of sentence." The State points out that Defendant has filed several requests for sentence reduction, which the court has denied.

The answer to the arguments that this motion is late and repetitive is that this motion is neither late, nor repetitive. The case does not fall under Rule 35(b). Ms. Walls, on her own, filed her first motion for sentence reduction on March 28, 2003, sixty days after sentencing and while the case was on direct appeal. The motion was undeniably timely. When it denied the motion, on April 7, 2003, the court expressly retained jurisdiction and it granted leave for Ms. Walls to re-file after she had served two years.

Ms. Walls filed her second motion, through counsel, on April 2, 2004. On May 5, 2004, the court again denied the motion. But again, it expressly retained jurisdiction. It was at this point that the court suggested that Ms. Walls go through the §4217 process. The court denied sentence reduction again, on April 14, 2005, again retaining jurisdiction. Then, as mentioned, came this motion on October 21, 2005.

In summary, the court finds Ms. Walls's latest application is timely and, for Rule 35 purposes, and not repetitive. Rather than keep the matter open and pending over the years, the court denied Ms. Walls's motions. Nevertheless, from the time it considered the first motion, filed less than ninety days after sentencing, the

court expressly anticipated this proceeding. For jurisdictional purposes, the court has treated this sentence as subject to further consideration. In effect, the earlier denials were without prejudice.<sup>1</sup>

#### IV.

On the merits, the court has the benefit of better hindsight. Since she entered prison, Ms. Walls has resumed the law-abiding, productive life she led until the moment she briefly and uncharacteristically lost control. Ms. Walls has submitted many documents and certificates outlining the programs she has participated in and the contributions she has made to other inmates' welfare. Just as she was a productive member of society before she went to prison, Ms. Walls has been a productive member of the inmate population.

Moreover, the prison's classification board and the State agree that Ms. Walls is unlikely to re-offend. Upon release, Ms. Walls will probably resume a law-abiding, productive lifestyle. The court further believes that the time Ms. Walls has served will deter other foster parents, as much as having Ms. Walls serve more time in prison would. Therefore, the pivotal question is: Will keeping Ms. Walls in prison serve any purpose beyond retribution? It will not.

Meanwhile, Ms. Walls has already served substantially more time in prison than is called for by the sentencing guidelines. No matter how much longer she serves, it will not make up for the damage Ms. Walls caused Nicholas Trusello. It is also unlikely that more punishment will make a much stronger impression on Ms. Walls.

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<sup>1</sup> See *State v. Sloman*, 886 A.2d 1257, 1265 (Del. 2005) ("Although Rule 35(b) normally operates as a check on a sentencing judge's inherent authority to modify a sentence, where a judge, in his sentencing Order, reserves that authority to modify a sentence upon the occurrence of certain conditions, Rule 35(b) is not implicated at all.").

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Ms. Walls has a husband and a young child of her own. Considering: the more than three years she served in prison, how she spent those years, and the desirability of reuniting her family, weighed against the only reason for keeping her in prison – retribution, the court is satisfied that Defendant's serving the original sentence in its entirety is not in the interest of justice.

The court will reduce the sentence by a few months and allow Ms. Walls to be home before the next school year. The court believes that as Ms. Walls sees her own child off to school, she will think of what Nicholas and his adoptive parents are doing, she will remember why that is for them the way it will be, and she will be truly sorry.

V.

For the foregoing reasons, Defendant's sentence is **MODIFIED**. By separate order the court will reduce Defendant's sentence by three months.

Very truly yours,

FSS/lah

oc: Prothonotary (Criminal Division)

pc: Warden Patrick Ryan, WCI